

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT

TODD S. HUMPHREY,  
Plaintiff

v.

ROBERT HOFMANN, et al.  
Defendant

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File No. 1:08-cv-101

**ORDER**

The Magistrate Judge's Report and Recommendation was filed May 7, 2008. (Paper 2). After de novo review and absent objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. See 28 U.S.C. § 636(b)(1).

This case is DISMISSED and plaintiff's motion to proceed in forma pauperis (Paper 1) is DENIED as moot. The dismissal shall be considered a "strike" for purposes of 28 U.S.C. § 1915(g).

It is further certified that any appeal taken in forma pauperis from this Order would not be taken in good faith because such an appeal would be frivolous. See 28 U.S.C. § 1915(a)(3).

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 2<sup>nd</sup> day of June, 2008.

/s/ J. Garvan Murtha  
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J. Garvan Murtha  
United States District Judge